C.S. 100/-

SINGLE BENCH 5

IN THE HIGH COURTOF JUDICATURE OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 2966 /2006

PETITIONER : Smt. Rajbati Yadav alias Rambati w/o Ramprasad Yadav (illeterate villager) aged 79 years, now destitute unemployed resident of Baloda Bazar, Tahsil - Baloda bazar District Raipur (C.G.)

P.R. No. ..... Presented by Shri ..... dated .....

VERSUS

RESPONDENTS :

1. The State of Chhattisgarh through Secretary, Department of Water Resourses (Irrigation), D.K.Bhawan Secretariate, Raipur.
2. The Joint Director Finance, Accounts and Pension, Raipur, District Raipur (C.G.)
3. The Executive Engineer, Department of Water Resources Baloda Bazar (Division No.2) Distiict Raipur (C.G.)
4. The Sub-Divisional Officer, ~~Office~~ Water Resources Deptt. Baloda Bazar, District Raipur
5. The Secretary, Finance Account (Pension), of the State of C.G. Secretariate, D.K.Bhawan Raipur, District Raipur(C.G.)
6. The Collector, Raipur, Distiict Raipur (C.G.)

P.R. No. 2806/06 Presented by Shri Sampath Sahu dated 12/6/06

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CLERK to AG BILASPUR 12/6/06

OATH COMMISSIONER APARNA MALVIYA CG-2073/06 12/06 Bilaspur Chhattisgarh

PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OFINDIA FOR ISSUE OF MANDAMUS, CERCIORARY, PROHIBITION ETC. OR ANY APPROPRIATE WRIT DIRECTION OR ORDER.

(70)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...WP 1966/06... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

23.6.2006

Shri J.R. Verma, Advocate for the petitioner.

Smt. Chitra Shrivastava, P.L. for the respondents/State on advance copy.

This is yet another case where the petitioner, who is an illiterate lady aged about 79 years and widow of Late Shri Ramprasad Yadav, who was working as Peon in the Water Resources Department, Baloda Bazar, District Raipur and died in the year 1975 while in service, is not being paid family pension by the respondents.

The facts of the case shows that how the respondent authorities are indifferent towards the rights of the petitioner. The petitioner has a legal right to get the family pension, even then her claim is not being decided by the respondent authorities on the ground of lapse committed by none else than the respondents themselves by misplacing the service record of Late Shri Ramprasad Yadav, which is evident from letter dated 8.8.2005 (Annexure P-1) written by the Executive Engineer, Water Resources Department , Division-II, Baloda Bazar to respondent No.2-Joint Director, Finance, Accounts and Pension, Raipur mentioning therein that Late Shri Ramprasad Yadav died on 10.1.1975 forwarded the application of the widow petitioner to provide her family pension under the Rules of 1966 and after preparing the duplicate copies of the service book of Late Ramprasad Yadav, sent the same to respondent

(12)

XI-HC-78

(F1)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

No.2. On the same application, respondent No.2 put some queries and asked that whether any enquiry has been instituted against the person who has lost the service book of Late Ramprasad Yadav. The Executive Engineer again vide letter dated 16.2.2006 explained the situation but so far nothing has been done.

The attitude of respondent authorities is worth condemnation. The Hon'ble Apex Court in the matter of **S.K. Mastan Bee Vs. General Manager, South Central Railway and another** reported in **(2003) 1 Supreme Court Cases 184** held that;

> "even if an illiterate lady does not know at the time of death of her husband about her legal right to family pension on the death of her husband, it was obligatory for her husband's employer to compute the family pension payable and offer the same to the widow even without making of a claim or initiation of litigation on her part.'

The Court has further held that;

> "very denial of her right to family pension amounted to a violation of the guarantee assured to the appellant under Article 21."

Under these circumstances, without causing further delay, respondent No.2 is directed to consider the case of the petitioner and pass appropriate orders in accordance with law within a period of 60

XI-HC-78

(72)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

days from today regarding grant of family pension to the petitioner from the date of death of her husband. The petitioner shall be entitled for the interest @ 9% per annum on the amount due.

As has been mentioned earlier that the petitioner is very age-old lady of 79 years, therefore, it is duty of the respondents to do the needful.

This order is being passed based on the records without any formalities of giving time to the respondents to file the reply, therefore, if any body is prejudiced and this order requires reconsideration on any justifiable ground, then the respondents shall be at liberty to move this Court by filing an interlocutory application for recalling this order. However, if the respondents do not pass necessary orders within a period of 60 days, then the petitioner will be at liberty to approach this court by filing an interlocutory application in the matter.

With the directions aforesaid, the petition stands disposed of.

Roshan/-

Sd/-
L.C. Bhadoo
Judge